

BILL NO. 2034

ORDINANCE NO. 1815

AN ORDINANCE AMENDING ORDINANCE NO. 123, SECTION 27-1 OF THE CITY OF CHESTERFIELD MUNICIPAL CODE, RELATING TO TELEPHONE SERVICE OR EXCHANGE TELEPHONE SERVICE AND TELEGRAPH COMPANIES, BY ENACTING THEREIN A NEW SECTION TO BE KNOWN AS "TELEPHONE SERVICE, EXCHANGE TELEPHONE SERVICE DEFINED;" CONTAINING A SAVING CLAUSE.

WHEREAS, Ordinance 123 (Code Section 27-1 to 27-15) imposes an annual license or occupational tax on every person engaged in the business of supplying or furnishing telegraph services or exchange telephone service, in the amount of five percent (5%) of the gross receipts derived from such business;

WHEREAS, "Exchange Telephone Service" is not defined in Ordinance 123;

WHEREAS, cellular and wireless telephone companies maintain that they do not provide exchange telephone service within the meaning of Ordinance 123;

WHEREAS, the plain and ordinary meaning of exchange telephone service includes a cellular and wireless telephone service;

WHEREAS, in Mo. Code Regs. Title 12, Section 10-3.1888 the Missouri Director of Revenue defines telephone service to include cellular and wireless service for sales tax purposes;

WHEREAS, the Chesterfield City legislative intent with respect to Ordinance 123, at all times has been that cellular and wireless telephone service is subject to the tax therein; and

WHEREAS, this ordinance is intended to clarify the meaning of exchange telephone service as used in Ordinance 123; and

WHEREAS, this ordinance is not intended to impose a new tax, license or fee.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHESTERFIELD, MISSOURI, AS FOLLOWS:

Section 1. Ordinance 123 relating to telephone and telegraph companies, is hereby amended by enacting therein a new section to be known as "Exchange Telephone service defined", which shall read as follows:

Exchange Telephone service defined.

- A. "Exchange Telephone service", as used in Ordinance 123, means the service ordinarily and popularly ascribed to it including, without limitation, the transmission of message and conversations through use of local, toll and wide

area telephone service; private line services; land line services; cellular telephone services; and maritime and air-to-ground telephone service. Exchange Telephone service includes the transmission of information over telephone lines and other telephonic media for facsimile transfers. Telephone service does not include value-added services including computer processing applications used to act on the form, content, code and protocol of the information for purposes other than transmission.

- B. A subscriber of exchange telephone service is any individual, business, corporation or other entity who uses, or maintains for use, equipment necessary to transmit information over telephone lines. Telephone lines refers to any means of transmitting telephone messages, including, but not limited to, wire, radio transmission, microwave and optic fiber technology.

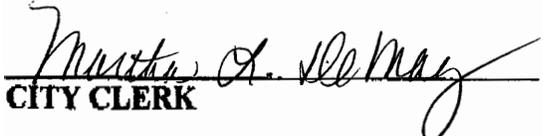
Section 2. This ordinance shall not be construed so as to relieve any person, firm, or corporation from any penalty heretofore incurred by the violation of Ordinance 123, nor bar the prosecution for any such violation.

Section 3. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 13th day of January, 2002.


MAYOR

ATTEST:


CITY CLERK